

REMARKS

In the Action, claims 11-26, 28-37 and 43-45 are rejected. Claims 38-42 are objected to as depending from a rejected base claim, but indicated as being allowable if rewritten in independent form.

Finality of Office Action is Premature

Applicant submits that the Action raises new grounds of rejection not necessitated by the prior amendments. In particular, claims 11, 29, 34-38 and 43-45 are rejected as being obvious over Schulte in view of the Esler patent and the alleged admitted prior art. This rejection was not made in the previous Office Action. Furthermore, independent claim 11 was not amended in Applicant's previous response. Since no amendments were made to independent claim 11, the final rejection based on new grounds is improper and should be withdrawn.

In view of these amendments and the following comments, reconsideration and allowance are requested.

Rejection Under 35 U.S.C. § 112

The present Amendment amends claims 38 and 42 to clarify the features of the invention. As amended, the claims are submitted to overcome the rejection under 35 U.S.C. § 112, second paragraph. Since these changes to the claims place the claims in better form and do not raise new issues, these changes should be entered, even if submitted after a final rejection.

Declaration is Adequate Relative to Schulte

The Action indicates that the Declaration submitted with the previous response is not sufficient to establish a date of invention prior to the effective date of the Schulte reference. Specifically, the Action contends that the Declaration does not show the whole invention as claimed since the evidence does not show that the slip preventer is a “softer material” than the strip. Applicant submits that the Declaration establishes that a profiled strip was produced having an anti-slip coating where the anti-slip coating is a rubber glue thinned with methylethylketone or acetone. One skilled in the art would recognize that the rubber glue is a softer material than the profiled strip. Thus, the rubber glue is inherently softer than the profiled strip to establish a date of invention as claimed. The evidence submitted with the Declaration is not required to expressly recite that the coating is “softer” than the material of the profiled strip.

Furthermore, the Declaration is only required to show as much as the reference shows when the rejection is based on obviousness. MPEP 715.02. As specifically stated therein, a rejection based on obviousness over a reference where the art of record does not disclose the claimed modification, a Declaration under 37 C.F.R. 1.131 can be sufficient even if it does not show each feature of the claimed invention. As noted above, the evidence in the Declaration shows a coating of a glue on a profiled strip which is inherently a softer material than the profiled strip. The Declaration and the evidence attached thereto clearly show the profiled strip of Schulte as well as the claimed anti-slip material being formed of a material softer than the material of the profiled strip. Schulte only discloses a profiled strip without a slip preventer so that the Declaration is only required to show the shaped profiled strip. The Declaration shows more than what is disclosed by Schulte and is sufficient to antedate the Schulte patent.

Rejection of Claims 11, 15, 17 and 28

Claims 11, 15, 17 and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 3,876,495 to Esler. Esler is cited for disclosing a welting cord having a foamed body.

Esler does not disclose a method of producing a shaped strip for securing a covering to a cushion component as claimed. Esler further fails to disclose a method of forming a shaped strip for engaging a longitudinal passage and providing a slip preventing material on the exterior surface of the shaped strip. The welting cord of Esler is not a flexible shaped strip that functions or is capable of functioning as a fastener for securing a covering to a cushion component. The bundle of fibers 42 of Esler is not a shaped strip capable of securing a covering to a cushion component as claimed. The foam body 46 of Esler is not a slip preventing material formed on a shaped strip. Accordingly, Esler does not disclose or suggest the claimed method of forming a flexible shaped strip.

As shown in Figure 1 of Esler, the welting cord is wrapped by a fabric to provide a decorative feature to the finished article. There is no structure disclosed by Esler that would enable the welting cord to connect a fabric or cover to a foam cushion. The internal member 42 shown in Figure 1 of Esler is a reinforcing member formed from a plurality of flexible polyester fibers. See, column 6, lines 37-41. Thus, the reinforcing member of Esler is not a shaped strip capable of attaching a cover to a foam cushion component. The foamed body 46 provides the volume so that the structure can function as a welting cord.

Furthermore, Esler does not disclose providing a slip preventing coating on the exterior of a shaped strip where the slip preventer coating is a plastic softer than the plastic material of the shaped strip. There is no suggestion in Esler that the foam material is softer than the fibers forming the core of the welting cord. The non-slipping exterior surface of the welting cord of Esler is the result of the foam structure and not the foam material being softer than the core material. Esler discloses the foam being made from low density polyethylene. The polyethylene foam is not inherently softer than the core material as asserted in the Action. The Action does not establish that the foam material of Esler is a softer material than the fibers forming the core.

The plurality of fibers of Esler provides no motivation or incentive to one of ordinary skill in the art to produce a fastener strip having a profile to attach a cover to a cushion material. Esler further fails to provide the necessary motivation or incentive to apply a soft anti-slip material to the outer surface of a shaped strip. Accordingly, claim 11 is not obvious over Esler. Esler further fails to disclose shaping the slip preventing coating by extrusion as in claim 15, hot coating as in claim 17, or coating the strip as in claim 28, in combination with the method steps of claim 11. Accordingly, claims 11, 15, 17 and 28 are not obvious over Esler.

Rejection of Claims 11, 12, 15, 17, 22, 24, 28 and 30-32

Claims 11, 12, 15, 17, 22, 24, 28 and 30-32 are rejected under 35 U.S.C. § 103(a) as being obvious over South African Patent 9805078 to Schulte in view of Esler and U.S. Patent No. 6,478,382 to Maruyama.

As discussed above, the Declaration submitted with the previous response is sufficient to show a date of invention and to antedate the Schulte patent. The evidence submitted with the

Declaration shows that the invention was completed in Germany by successfully performing and testing the claimed method. The evidence demonstrates that an anti-slip material in the form of a rubber glue thinned with methylethylketone was applied to a shaped strip. The Declaration and the evidence are not required to expressly recite that the anti-slip coating is “softer” than the shaped strip as asserted in the Action. One skilled in the art would readily recognize that a rubber glue is flexible and soft. Accordingly, the Declaration establishes the claimed invention prior to the date of the Schulte patent.

The Action mischaracterizes the evidence submitted with the Declaration. Specifically, the Declaration does not indicate that the softness of the materials is “not important”. While page 4 of Exhibit 3 may state that the profile hardness was not of interest for purposes of the test, it does not state that the hardness of the profiled strip and coating are not important. The experiment of Exhibit C was made to test the coating of the anti-slip material. Thus, this statement only suggests that the hardness of the profile shaped strip was not evaluated for purposes of that experiment. Even if the assertion was correct, the evidence establishes an anti-slip coating softer than the shaped strip.

In view of the above, the Declaration is sufficient to remove the Schulte patent as a reference in this application. Even if Schulte is applied as a reference, the combination of Schulte in view of Esler and Maruyama do not disclose or suggest the claimed invention. Schulte is cited for disclosing a strip for securing a cover to a seat cushion, but clearly does not disclose an anti-slip coating. Esler is cited for disclosing a foam body over a fiber core, while Maruyama is cited for disclosing a rubber layer on an electric wire. The Action contends that it

would have been obvious to modify Schulte to form the foam body of Esler or the rubber wire coating of Maruyama onto the shaped strip of Schulte.

The Schulte patent discloses that the ribs are sufficient to fasten the strip to a foam body and provides no motivation or incentive to apply an anti-slip coating. The welting cord of Esler is not relevant to the fastener of Schulte or the claimed invention. The foam layer on the core of Esler is formed to provide sufficient volume to function as a welting cord and is not applied as a coating to increase the anti-slip properties of the core of polyester fibers. It would not have been obvious to one of ordinary skill in the art to apply the foam of Esler onto the shaped strip of Schulte. The welting cord of Esler is not used within a seat cushion and the foam coating does not prevent slippage between a foam cushion and a fastener having a profiled shaped strip.

Maruyama relates to a trim cover having an electric heater. Maruyama specifically discloses that the wires 15 shown in Figure 3 with hook-like ends 15b are described as pulling wires for securing the trim cover to the seat cushion. The pulling wires are not a shaped strip for engaging a seat cushion. The pulling wires pass through loops in the seat material and the wires are coupled to the frame of the seat. The rubber coating on the pulling wires is not an anti-slip material. As specifically disclosed in Maruyama, the coating prevents damage to the heating element. Maruyama provides no motivation or incentive to apply an anti-slip material to a shaped strip for attaching a cover to a cushion material.

Independent claim 11 is not obvious over the combination of the cited patents since Esler and Maruyama provide no motivation or incentive to apply an anti-slip material to the shaped strip of Schulte. The cited patents also fail to disclose the hardness of claim 12, extruding the slip preventing coating on the shaped strip as in claim 15, hot coating as in claim 17, or the

rubber coating of claim 22, either alone or in combination with the method of claim 11. The art of record further fails to suggest applying a slip preventing material between the recessed areas on the outer surface of a shaped strip as in claim 23, or the configuration of the shaped strip of claim 24, or the coating method of claim 28, in combination with the method of claim 11.

Independent claim 30 is directed to a method of producing a flexible shaped strip having a top surface where the slip preventing material is applied to the top surface of the strip and where the slip preventing material is a plastic material softer than the material of the shaped strip. For the reasons discussed above, Schulte, Esler and Maruyama either standing alone or in combination do not suggest applying an anti-slip material to a top surface of the shaped strip as claimed. Accordingly, claim 30 and the claims depending therefrom are not obvious over the art of record.

The art of record also fails to disclose applying the soft plastic material to recesses between the interlocking members of the shaped strip as in claim 31, or the Shore hardness of claims 32 and 33, in combination with the method of claim 30. Accordingly, these claims are also allowable over the art of record.

Rejection of Claims 12-14, 32 and 33

Claims 12-14, 32 and 33 are rejected as being obvious over Schulte, Esler and Maruyama and further in view of U.S. Patent No. 4,057,956 to Tolle. Tolle is cited for disclosing a coating on a steel cable to prevent flaring of wires when the cable is cut. Tolle, as noted in the Action, relates to coating steel cables. This has no relation to the claimed invention or the device of Schulte. Thus, Tolle provides no motivation or incentive to apply an anti-slip material having a

specified hardness onto a shaped strip for securing a cover to a cushion material. Thus, claims 12-14, 32 and 33 are not obvious over the combination of cited patents.

Rejection of Claims 18, 19, 25 and 26

Claims 18, 19, 25 and 26 are rejected as being obvious over Schulte, Esler, Maruyama and further in view of U.S. Patent No. 5,095,915 to Engelson. Engelson is cited for disclosing coatings applied in thin strips by extrusion or dip coating. However, Engelson relates to a catheter guide wire which has no relation to the claimed invention or to the device of Schulte. Engelson provides no suggestion of applying an anti-slip material in thin strips to a shaped strip of Schulte. Accordingly, claims 18, 19, 25 and 26 are not obvious over the combination of the cited patents.

Rejection of Claims 20 and 21

Claims 20 and 21 are rejected over Schulte, Esler, Maruyama and further in view of U.S. Patent No. 4,874,670 to Boon et al. Boon is cited for disclosing resins that are cured by ultraviolet light. Boon is relevant only to the extent that UV-curable or electron radiation-curable polymers are known. Boon provides no motivation or incentive to apply a UV-curable or electron radiation-curable anti-slip material to the shaped strip of Schulte. Accordingly, claims 21 and 22 are not obvious over the combination of the cited patents.

Rejection of Claims 11, 29, 34-38 and 43-45

Claims 11, 29, 34-38 and 43-45 are rejected as being obvious over Schulte, Esler and the alleged admitted prior art. Schulte is cited as in the previous rejections for disclosing a shaped strip to secure a cover to a seat cushion. The alleged admitted prior art is relied on as showing that it is known to use an anti-slip “component”. The Action contends that it would have been obvious to use anti-slip components coated with an anti-slip material.

For the reasons discussed above, Schulte is not available as a reference in this application. Furthermore, Schulte does not disclose or suggest a shaped strip having a slip preventer on an exterior portion of the shaped strip. Esler relates to a foam body formed on a bundle of fibers to form a webbing cord. The foam body of Esler is not an anti-slip coating material and is not applied to the fibers of the cord to prevent the cord from slipping. The alleged admitted prior art also fails to disclose or suggest an anti-slip or slip preventer on the periphery of a shaped strip. The passage relied on in the Action refers to the strip of anti-slip components which leads to “relatively weak shaped strips” without an increase in the tear resistance of the shaped strip from the cushion material. Thus, this passage would discourage one of ordinary skill in the art from using a strip of anti-slip components since this passage suggests that no benefit is attained and results in weaker shaped strips. Accordingly, independent claims 11 and 34 are not obvious over the combination of Schulte, Esler and the alleged admitted prior art.

The claims depending from claims 11 and 34 are also allowable over the art of record. The cited art does not disclose inserting the shaped strip with a slip preventer into the foam cushion as in claim 29, the coating step for applying the slip preventer as in claim 35, applying the slip preventer to the top surface of the strip as in claim 36, applying the slip preventer

between the longitudinal interlocking members of claim 37, or shaping the shaped strip to a size to be retained within the cushion component as in claim 38, either alone or in combination with the methods of claim 11 and 34.

The art of record also fails to disclose applying the second plastic material as the slip preventer in the form of a thin coating as in claim 43, applying the second plastic material to the top surface of the shaped strip as in claim 44, or providing a fastener coupled to the shaped strip as in claim 45, in combination with the methods of claims 11 and 34.

In summary, Applicant submits that the Schulte reference is not available as a reference and that the Declaration previously submitted is sufficient to remove the Schulte patent as a reference. Furthermore, the secondary references provide no suggestion of applying a slip preventer to the outer surface of the shaped strip of Schulte. Therefore, the claims are submitted to be allowable over the art of record.

Reconsideration and reexamination are requested.

Respectfully submitted,



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